

APPROVED 8/2/04

TOWN OF WESTFORD

PLANNING BOARD

MINUTES

DATE: July 12, 2004

TIME: 7:00 P.M.

PLACE: Millennium School

PRESENT: Michael Green, Andrea Peraner-Sweet, Peter Fletcher,
Robert Shaffer, Fred Palmer

OTHERS

PRESENT: Norman Khumalo-Asst. Town Manager, Jamie Magaldi-Asst.
Town Engineer, Audience Members

OPEN FORUM

Master Plan Implementation Committee – The Committee will be meeting on Tuesday, July 13, 2004, at 7:30 p.m.

Stone Wall at Kindercare – Green asked for an update regarding the stone wall at the Kindercare site on Carlisle Road. Magaldi stated that he recently inspected the wall which appears to be constructed from large rocks. Magaldi stated that the plans called for field stone. Magaldi will follow up with Greenhill. Shaffer asked that Staff remind the Building Inspector that prior to the issuance of the occupancy permit, the debris from the rear of the property is to be removed pursuant to an agreement with an abutter.

Tzikopolous Property – Peraner-Sweet asked if the Selectmen would be discussing this matter at their July 13th meeting. Khumalo to notify the Planning Board regarding the time of the discussion so that Board members may attend the meeting.

MPIC Appointment – Tom Spuhler, 232 Concord Road, asked for clarification of his MPIC appointment. Spuhler stated that he was appointed to the Committee from December through June 30th. Green explained that committee appointments typically run July 1st through June 30th. Green also explained that the Board would be voting on re-appointments to the MPIC this evening.

EXECUTIVE SESSION – ROME DRIVE UPDATE

It was moved by Peraner-Sweet, seconded by Fletcher, and VOTED 4 IN FAVOR WITH 1 RECUSAL (Shaffer), to go into executive session at 7:05 p.m. for the purpose of discussing Rome Drive update. A polling of the Board: Green-yes; Peraner-Sweet-yes; Fletcher-yes; Palmer-yes; Shaffer-recused. Shaffer recused himself as he is an abutting landowner. Norman Khumalo-Assistant Town Manager; Jamie Magaldi, Assistant Town Engineer; and Ellen Callahan Doucette-Town Counsel were also present for the discussion. The Board to reconvene to regular session at the end of the executive session in order to complete the remaining agenda items.

RECONVENE TO REGULAR SESSION

The Board reconvened to regular session at 7:15 p.m.

Peraner-Sweet updated a resident from Rome Drive regarding the recent filing of a Motion to Intervene in a case currently in Middlesex Superior Court against Mr. DeMauro. Peraner-Sweet stated that the Motion to Intervene allows the Town to become a party in that action to enforce the Town's rights to the money that is currently being held. Peraner-Sweet stated that because no opposition was filed the Town expects that the Court will routinely allow the Motion to Intervene. Peraner-Sweet stated that the Town will then file a Complaint and serve the Complaint on all of the other parties. The parties have twenty days to respond. Peraner-Sweet stated that the neighbors also have the option of hiring their own private counsel because the residents believed that they were purchasing homes on a public way when in fact the road is still a private way.

PUBLIC HEARING – XAVIER LANE (Formerly Dupee Lane) – DEFINITIVE SUBDIVISION – 3 LOTS – SPECIAL PERMIT – COMMON DRIVEWAY *178 Carlisle Road, CTZ Design Partnership, Continued from June 21, 2004*

Bert Hamill, H-Star Engineering and Jim Zegowitz of CTZ Design Partnership, were present. Khumalo outlined the outstanding issues with regard to a Notice of Intent to be filed with the Conservation Commission; sight distance concerns; type of vegetation needed to be reflected in the landscaping plan; the need for a detailed explanation of the requested waivers; and how the sidewalk easement will be reflected in the final definitive plan.

Hamill reported that the applicant has filed with the Conservation Commission and has had subsequent meetings. Hamill stated that the sight distance plan was provided to the Town Planner approximately 10 days ago. The sight plan

provides approximately 350 feet of sight distance. Hamill stated that a full easement (25 feet wide) has been provided for the sidewalks along Lot 2. Hamill indicated that an explanation of the waivers has been provided, however, a cost benefit ratio was not done because of the size of the subdivision. Hamill stated that he would provide a supplementary landscaping plan relative to the type of vegetation. Khumalo stated that the plan currently before the Board does not show a sidewalk rather it only shows an easement. Hamill questioned the need to show a sidewalk that they are not building. Shaffer stated that the Board generally starts with a plan with all of the required items demonstrating plan feasibility and then waivers are considered. Zegowitz wanted to know who would be responsible for the construction of the sidewalk. Zegowitz stated that at the last meeting there was a request for space to provide a sidewalk but that there was not a request to build the sidewalk. Green asked that the sidewalk be shown on the plan. Peraner-Sweet asked for clarification of whether this project has a common driveway or a private roadway. Khumalo believed that this project will have a private roadway based upon discussions with Staff. Green suggested that the Special Permit for a common driveway be withdrawn without prejudice. Hamill indicated that he would prepare a letter seeking a withdrawal. Green stated that he continued to have safety concerns regarding the access and egress from the existing driveway. Staff will work with the applicant regarding the sidewalk issues. Green asked the applicant to provide a cost benefit ratio for the project. There was no input from the floor. Continued to August 2, 2004 at 8:20 p.m. at the Millennium School.

PUBLIC HEARING – WESTFORD VALLEY MARKET PLACE – SPECIAL PERMIT – HAZARDOUS MATERIALS – SPECIAL PERMIT – SIGN – SITE PLAN AMENDMENT

174 Littleton Road, A.A. Burns and Co. – Open Public Hearing

It was moved by Peraner-Sweet, seconded by Fletcher, and VOTED UNANIMOUSLY, to open the public hearing.

Tom Cook of Oak Engineering and Mike Bingly of Peter Quinn Architects were present for the applicant. Cook began the discussion with the Site Plan Amendment. Cook stated that they received Site Plan Review Approval last month. Cook stated that they added a water line from the back of Market Place II westerly then northerly up to the wastewater treatment facility and for fire protection to feed the sprinklers. Cook stated that the water line was not on the original Site Plan Review application. Cook pointed out the location of the water line. The applicant will be in front of the Conservation Commission this week with a Notice of Intent due to work within the 100 foot buffer. Bingly outlined the proposed screening with a pipe rail for the mechanical units on the roof of the control building. The Board requested specific information and pictures regarding the proposed screening. Peraner-Sweet asked that the applicant also provide alternative screening methods for the Board's consideration.

Bob Lafayette, 7 Fieldstone Drive, was concerned that the plans appear to be piece meal. Lafayette asked what is going to be built because it seems that the applicant keeps changing the plans. Green stated that the Board sometimes gets minor site plan amendments once the applicant gets in the field and finds various issues. Peraner-Sweet clarified that the Board requested site plan application for Market Place I because of the piping going on that site.

Cook and Bingly addressed the Special Permit request for the storage of methanol in the control building within the Water Resource Protection District. The application is to store fifty fifty-five pound bags of sodium bi-carbonate and two 55-gallon drums of Methanol.

Shaffer was concerned with the proximity of Burger King and the gas station and the potential for fire. Shaffer wanted to be sure that the structure was sufficient to withstand that condition and does not pose a risk to the adjacent gas station in terms of layout, construction, fire retardant materials, and how long it could withstand a fire in terms of a grease fire in the adjoining restaurant. Shaffer requested that the Fire Department review the placement of the additional hydrant in case of a catastrophic event.

Cook proposed moving the existing Burger King sign to the new façade. The dimensions of the existing Burger King sign are as follows: 16'-8" in length, the letters are 5" thick and 1'-7" tall. Shaffer asked Staff to confirm that the sign meets the Sign Bylaw.

Continued to August 23, 2004 at 7:40 p.m.

PUBLIC HEARING – DEAN DRIVE – DEFINITIVE SUBDIVISION –DEF
74 Stony Brook Road, Norse Design Services, Open Public Hearing

It was moved by Peraner-Sweet, seconded by Shaffer, and VOTED UNANIMOUSLY, to open the public hearing.

Green announced that the applicant has requested a continuance of the public hearing to allow time for a department head meeting to discuss various comments that were received.

Continued to August 23, 2004 at 7:50 p.m.

PUBLIC HEARING – CUTTING EDGE TECHNOLOGIES – SITE PLAN
REVIEW
364 Littleton Road, Ryan Development, Open Public Hearing

It was moved by Peraner-Sweet, seconded by Shaffer, and VOTED UNANIMOUSLY, to open the public hearing.

Robert Walker, Ryan Development, was present. Walker stated that the site located at 364 Littleton Road, Nashoba Brook Park, was permitted in 1998 and was granted site plan amendment a few years ago. Walker proposed a 12,000 sq. ft. single-story, warehouse addition to the rear. Walker outlined the plans for the addition. The masonry will match the existing rear façade. The paving will be removed for the building. There will be no net loss of parking spaces. Magaldi addressed the concerns of the Highway and Engineering Departments as outlined in a memo dated June 22, 2004.

Peraner-Sweet asked for the status of the sidewalk proposed along Route 110. Walker stated that the sidewalk plans have been filed with the Planning Department. It was Walker's understanding that the Town is still working on easements. Khumalo stated that pursuant to the Town Planner the Town may not be able to secure the remaining easements. Green suggested scheduling the sidewalk update discussion for August 23, 2004.

There was no input from the floor.

Walker will provide revised plans for the Board's review. Green asked for a proposed schedule because it relates to other site issues that are still left to be done. Walker estimated that the work would be done in the next two months. Green suggested restricting occupancy until those other issues are done.

Continued to August 23, 2004 at 8:15 p.m.

DISCUSSION ITEM – CHESTNUT HILLS

Chestnut Hills Land Corp.

Tom Ellis, OHC Development, was present. Ellis reported that they have received consent from the five homeowners regarding the foundation drains and letters have been sent to the lenders seeking consent. Ellis proposed moving ahead with the physical amendments that were approved by the Town Engineer. Ellis stated that Chestnut Hill Land Corp. could then finish their work. Green stated that the Board cannot address engineering plans because a public hearing needs to be opened after consent is granted by the mortgagors. Fletcher suggested that Ellis contact the title insurance companies rather than the mortgage holders.

Magaldi reported that the as-built plan shows the retaining wall on Tavern Circle in the right of way. Magaldi stated that the wall could be moved or necessary easements could be obtained. Magaldi stated that the wall should not be in the right of way nor will the Town maintain it. Shaffer noted that the terminus on Erin's Way was not constructed as originally designed and it causes issues with the alignment for the turnaround of emergency vehicles. Shaffer stated that this issue will also involve the abutting landowners and their mortgage holders because the way they tie into the road will be changed.

Magaldi stated that the Engineering Department has the drainage calculations but needs to see a specific plan of how the drainage will be constructed. Ellis stated that they would move forward with the specific plans. Shaffer asked if there was a mechanism that would allow the developer to stub off a drain line within the right of way and bury it. Then when the Board goes through the process later, tie in the other two drains so that the developer does not have to go into the road. Green felt that Shaffer's suggestion was creative but that it did not address the drainage issues in terms of completing the sidewalk. Peraner-Sweet suggested getting an opinion from Town Counsel regarding what constitutes notice and consent. Fletcher also wanted to ask Town Counsel if it is appropriate to also notify the title insurance company.

Green asked for the following: completion of an engineering plan; documenting the easement for the retaining wall; drafting a covenant; collectively getting a schedule from OHC and Chestnut Hill Development regarding the driveway aprons; and the terminus of Erin's Way bulb redesign.

Continued to August 2, 2004 in Director's Report and August 23, 2004 at 8:30 p.m.

MAILBOX

Letter from Engineering dated June 28, 2004 regarding Beaver Dam Drainage Concerns – Magaldi reported that the Engineering Department has reviewed the hydrogeologic report provided by David Guthrie. Magaldi stated that a meeting was held at the Highway Department with Mr. Cox, Mr. Guthrie, Darren McCaughey from the Board of Health, Arsenault and Magaldi, to discuss the findings of the hydrogeologic report. Magaldi stated that the report shows proof that the groundwater problems on the Cox property are not directly related to the development. The report also shows that the drainage system on Woolsack Estates is operating properly.

Magaldi also reported that McCaughey issued an order to Mr. Cox to update his septic system within two years since he opened his leaching pit and groundwater is only 8"-12" below ground which puts his system in failure. Magaldi stated that the runoff in the street has been tested and shown to be safe. McCaughey has agreed to test the street runoff whenever it is deemed to be a problem. Khumalo will provide a copy of the hydrogeologic report to the Board. Magaldi recommended the placement of a perforated pipe on the Cox property which will clear the road of the icing hazard in the winter. The Board asked Staff to get information from Jay Billings regarding the swale located up the hill on Lot 8 (towards Depot Road).

Jose Ramirez, 14 Beaver Dam Drive, asked how often the Town tests the outflow to ensure that there is no health hazard present. Magaldi stated that he would need to speak to the Board of Health. Magaldi believed that the water was tested some time in the winter. Shaffer stated that the water was also tested in May. Ramirez requested ongoing testing due to the recent septic failure.

Paul Deroche, 4 Brookview Drive, stated that he was also getting breakout on his property (driveway) during the spring. Deroche asked that the groundwater runoff be channeled in the existing drainage system as soon as possible.

Magaldi stated that they were in agreement to place the pipe on the Cox property. Magaldi did not have an estimate of the cost for the pipe. The Board discussed using funds set aside by the developer of Woolsack Estates to address drainage issues. The Board asked Khumalo to get an opinion from Town Counsel whether Town Meeting action is needed for an easement as this is a pending safety issue for the winter. The Board will ask the developer for a cost estimate and design. Green suggested asking David Guthrie to supervise and provide oversight of the drainage work.

DIRECTOR'S REPORT

Final FEIR – Westford Tech Park West – Khumalo stated that written revisions have been received relative to the FEIR by Gutierrez. Beverly Woods, NMCOG, stated that MEPA does not intend to extend the comment period because while the schedule for the mitigation has changed, the actual substance for the mitigation was relatively the same and the technical data within the report had not changed. The Board reviewed the comment letter with Khumalo and Woods. Woods suggested including in the comment letter the following: should Mass Highway not be able to fulfill its part of obligation, the Town can request that MEPA require that the proponent file a Notice of Project Change and an amended Section 61 Finding. The Board concurred. The Board was concerned that the schedule may be accelerated which Mass Highway may not be able to keep up to. Khumalo wanted to include in the Town's comment letter some reference to the current discussion to help strengthen the Town's position when the review process continues with Gutierrez. Green pointed out that the letter did not address a timeline for segment C based on a slow build out (or acceleration) of the office park and suggested that it be commented on. The Board asked Khumalo comment that the numbers of the square feet are incorrect. Green asked that the language in the chart *...the Town of Westford or others...* be reinforced. Khumalo will provide a revised draft letter for the Board's review. Khumalo reported that he, Woods, and Fainelli will be meeting with the State to discuss possible PWED funding.

ANRs

55 Brookside Road – Marc A. Roy & Joyce E. Merrill – It was moved by Fletcher, seconded by Shaffer, and VOTED 4 IN FAVOR WITH 1 ABSTAINING (Green), to endorse the plan.

51 Concord Road – Peter Fletcher – Fletcher recused himself. It was moved by Peraner-Sweet, seconded by Shaffer, and VOTED 4 IN FAVOR WITH 1 RECUSAL (Fletcher), to endorse the plan.

Dunstable and Tenney Roads – David Donovan – Green asked that since this ANR is creating 4 lots on two sides of the street should it come through as two ANR plans. Green asked if there would be a problem at the time of filing. Khumalo felt that the ANR plan as submitted was appropriate. **It was moved by Peraner-Sweet, seconded by Shaffer, and VOTED UNANIMOUSLY, to endorse but make no determination as to zoning.**

Tzikopolous Property, Tyngsboro Road – A memo was received from the Town Manager seeking input from the Town Boards regarding the town's right of first refusal for the Tzikopolous property which is coming up for auction on July 27, 2004. The Board discussed the property and its proximity to conservation land. **It was moved by Peraner-Sweet, seconded by Shaffer, and VOTED UNANIMOUSLY, to advise the Board of Selectmen that the Board Planning would recommend that the Town exercise its right of first refusal on this parcel of land.**

MAILBOX, CONTINUED

Letter from Steve Ledoux dated June 15, 2004 regarding Barrister Drive – Magaldi reported that to date there has been no action by the developer. The developer is currently in the process of getting a set of plans from an engineer for the Town's review. Peraner-Sweet asked that the Engineering Department keep on top of this issue.

Letter from Engineering dated June 22, 2004 regarding Villages at Stone Ridge – Green recused himself as he is an abutting landowner. Magaldi reported that sidewalks were installed without the Town's notification. Magaldi noticed areas where the sidewalk cross slope exceed 2%, possibly 10% in areas. Magaldi stated that he spoke to the developer and a site walk will be done in the next two weeks. The Board urged Magaldi to have the sidewalks corrected as soon as possible. Shaffer recommended that no occupancy permits be granted for the abutting units until the sidewalks are fixed. Khumalo asked the Board for comments regarding the affordable unit and the funds. Peraner-Sweet asked Khumalo to review the decision and conditions of approval. Peraner-Sweet asked to advertise and open a public hearing for August 23, 2004 at 9:00 p.m. Peraner-Sweet stated that if it appears that the money will end up in the general fund she would like to have a discussion with the Selectmen prior to August 23rd.

Letter from Engineering dated June 28, 2004 regarding Brookside Mill
E-Mail from Engineering dated June 30, 2004 regarding Brookside Mill – For the Board's review. Khumalo stated that the construction of the sidewalks is proceeding well. Magaldi expected a Notice of Conditions to be issued on July 14th from the Conservation Commission to proceed with the bridge renovation work.

Letter from Engineering dated June 30, 2004 regarding Magnolia Drive – Magaldi referenced his memo regarding the inspection of Magnolia Drive. Magaldi asked for direction from the Board concerning a rock and mortar wall built around a manhole to conceal a protrusion. Green felt that this was in violation of site plan as related to lot grading as well as a safety hazard. The Board suggested that the structure be put to grade and that the plans be updated. Fletcher reported that the Concord Road sidewalks are underway.

Letter from Larry Koff & Associates dated July 1, 2004 regarding WTPW – For the Board's information.

Letter from Rizzo Associates dated July 7, 2004 regarding WTPW FEIR - For the Board's information.

APPOINTMENTS – MASTER PLAN IMPLEMENTATION COMMITTEE

It was moved by Shaffer, seconded by Peraner-Sweet, and VOTED UNANIMOUSLY, to reappoint Ingrid Nilsson, Fred Palmer, Andrea Peraner-Sweet, Bob Shaffer, Mike Green, Veronica Whitehouse, Ed Thomas, Peter Ewing, Leslie Thomas, Tom Spuhler, and Peter Fletcher, to the Master Plan Implementation Committee from July 1, 2004 to June 30, 2005 retroactively.

MINUTES

It was moved by Peraner-Sweet, seconded by Shaffer, and VOTED UNANIMOUSLY, to approve the minutes of June 21, 2004, as amended.

ADJOURNMENT

It was moved by Peraner-Sweet, seconded by Shaffer, and VOTED UNANIMOUSLY, to adjourn the meeting.